

Senate Study Bill 1145

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the statute of limitations period in a medical
2 malpractice action and including an applicability provision.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1979SC 82
5 rh/je/5

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1 1 Section 1. Section 614.1, subsection 9, Code 2007, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 614.8, subsection 2, Code 2007, is amended
1 4 to read as follows:
1 5 2. ~~Except as provided in section 614.1, subsection 9, the~~
1 6 ~~The~~ times limited for actions in this chapter, except those
1 7 brought for penalties and forfeitures, are extended in favor
1 8 of minors, so that they shall have one year from and after
1 9 attainment of majority within which to commence an action.
1 10 Sec. 3. APPLICABILITY. This Act applies to all actions
1 11 filed on or after the effective date of this Act.

1 12 EXPLANATION
1 13 This bill relates to the statute of limitations period in a
1 14 medical malpractice action and provides an applicability date.
1 15 The bill repeals the statute of limitations period in a
1 16 medical malpractice action for injury or wrongful death
1 17 against any physician and surgeon, osteopath, osteopathic
1 18 physician and surgeon, dentist, podiatric physician,
1 19 optometrist, pharmacist, chiropractor, physician assistant, or
1 20 nurse, licensed under Code chapter 147, or a hospital licensed
1 21 under Code chapter 135B, arising out of patient care. This
1 22 statute provides that such actions must be brought within two
1 23 years of reasonable discovery of the act giving rise to the
1 24 injury but that all actions must be filed within six years of
1 25 the wrongful act or omission. In addition, currently a minor
1 26 under the age of eight must file suit within two years of the
1 27 date the injury occurred or by the minor's 10th birthday,
1 28 whichever is later.

1 29 Upon repeal of this law, medical malpractice actions must
1 30 be filed within two years of the time at which the personal
1 31 injury occurs, which is the current statute of limitations
1 32 period for personal injury actions generally. This two-year
1 33 period is subject to the discovery rule that applies to civil
1 34 cases generally permitting a lawsuit to be filed within a
1 35 certain period of time after the injury is discovered or
2 1 reasonably should have been discovered, and the rule extending
2 2 the statute of limitations period for minors and incompetent
2 3 persons (Code section 614.8).

2 4 The bill applies to all actions filed on or after the
2 5 effective date of the bill.
2 6 LSB 1979SC 82
2 7 rh:rj/je/5